

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI: EASTERN DIVISION

HANS MOKE NIEMANN,)	
)	
<i>Plaintiff,</i>)	CIVIL ACTION NO. 4:22-CV-01110
)	
v.)	
)	
SVEN MAGNUS ØEN CARLSEN A/K/A)	
MAGNUS CARLSEN, PLAY MAGNUS)	
AS D/B/A PLAY MAGNUS GROUP,)	
CHESS.COM, LLC, DANIEL RENSCH)	
A/K/A “DANNY” RENSCH, AND)	
HIKARU NAKAMURA,)	
)	
<i>Defendants.</i>)	

**PLAINTIFF HANS MOKE NIEMANN’S UNOPPOSED MOTION REQUESTING
THE COURT TO SO-ORDER THE PARTIES’ STIPULATION EXTENDING
TIME TO RESPOND TO DEFEDANTS’ MOTIONS TO DISMISS**

Plaintiff Hans Moke Niemann (“Plaintiff”) respectfully submits this motion requesting that the Court so-order the parties’ proposed stipulation (the “Proposed Stipulation”) to extend Plaintiff’s time to file opposition or amend his complaint in response to the four separate motions to dismiss filed by defendants Magnus Carlsen (“Carlsen”), Chess.com, LLC (“Chess.com”), Daniel Rensch (“Rensch”), and Hikaru Nakamura (“Nakamura,” and collectively, “Defendants”), a copy of which is annexed hereto as **Exhibit A**.

In support of this motion, Plaintiff states as follows:

1. On November 29, 2022, the Court granted Carlsen’s and Chess.com’s unopposed motion to file non-duplicative briefs of 25 pages each in support of their motions to dismiss. ECF No. 37. As noted in that motion, Plaintiff consented to this request provided that he “be afforded an equal number of pages in response, the ability to file a consolidated response to” the motions, as well as any motion filed by Mr. Rensch, and “an enlarged response deadline that takes

into consideration [his counsel's] absence during the last two weeks of the year and the size of the motions." ECF. No. 35.

2. In granting that motion, the Court ordered that "[to] the extent Plaintiff seeks relief with respect to any responses, Plaintiff will need to file a separate motion." ECF No. 37.

3. On December 2, 2022, Carlsen filed a 25-page brief in support of his motion to dismiss (ECF No. 44), Chess.com filed a non-duplicative 25-page brief in support its motion to dismiss (ECF No. 47), and Rensch filed a non-duplicative 9-page brief in support of his motion to dismiss (ECF No. 55). On December 7, 2022, Hikaru Nakamura filed a 14-page brief in support of his motion to dismiss. ECF No. 60.

4. E.D. Mo. Local Rule 4.01(B) provides that "[e]xcept as otherwise provided in these rules or by order of the Court, each party opposing a motion ... must file, within fourteen (14) days after service of the motion, a single memorandum containing any relevant argument and citations to authorities on which the party relies."

5. Fed. R. Civ. P. 15(1)(B) provides that "[a] party may amend its pleading once as matter of course within ... 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." No responsive pleadings have been filed and 21 days after the service of Defendants' motions to dismiss is December 23, 2022.¹

¹ In compliance with the Court's order dated November 16, 2022, Plaintiff amended his complaint on November 22, 2022 solely to add information regarding the citizenship of the parties. Because that amendment was filed pursuant to an order of the Court, it did not exhaust Plaintiff's right to an amendment as matter of course. *See e.g., Canales v. Sheahan*, 2016 U.S. Dist. LEXIS 15768, (W.D.N.Y. Feb. 9, 2016) ("Here, plaintiff never exhausted his right to amend his complaint once as a matter of course. Plaintiff's original complaint led to a screening order that effectively ordered him to file an amended complaint; the screening order technically granted leave to amend"); *Duncan v. Liberty Mut. Ins. Co.*, 2016 U.S. Dist. LEXIS 190088 (E.D. Mich. Sept. 28, 2016) ("In the present case, plaintiff used her one free shot to file her second amended complaint. She was within her rights to do so because her first amended complaint was filed with the state court's permission, that is, under Fed. R. Civ. P. 15(a)(2)"); *Ramirez v. County of San Bernardino*, 806 F.3d 1002 (9th Cir. 2015) ("For example, as in this case, a plaintiff may file his first amended complaint with consent from the opposing party, which satisfies Rule 15(a)(2). He may thereafter utilize his one matter of course amendment under 15(a)(1), so long as he files it timely.")

6. The parties have met and conferred regarding Plaintiff's anticipated motion (i) to extend his time to respond to Defendants' motions to dismiss; and (ii) for permission to file a consolidated opposition brief of a length equal to that of Defendants' four separate moving briefs in the event he elects to stand on his initial pleading rather than amend his complaint.

7. As a result of those discussions, the parties entered into the Proposed Stipulation, which also affords Defendants an enlargement of time to reply to any opposition filed by Plaintiff.²

8. Plaintiff respectfully submits that this relief is necessary given the size and complexity of Defendants' four separate motions, as well as Plaintiff's counsel's pre-existing travel schedules, the interceding holidays, and other pre-existing commitments.

9. Based on the foregoing, Plaintiff respectfully requests that the Court so-order the Proposed Stipulation.

Dated: New York, New York
December 12, 2022

s/Andrew J. Urgenson
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² Plaintiff agreed to defer its request to file an enlarged, consolidated opposition brief pending his determine of whether to amend the complaint.

and

s/Matthew Gartner

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